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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/039,313 | 10/27/2001 | Shahram Shariff | 006593-01953 | 2119 |

33375 7590 11/24/2004

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EXAMINER

ASHLEY, BOYER DOLINGER

| | |
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| ART UNIT | PAPER NUMBER |
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3724

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/039,313

Applicant(s)

SHARIFF ET AL.

Examiner

Boyer D. Ashley

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

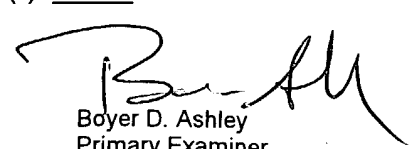
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 8/10/04.
10. ☐ Other: _____


Boyer D. Ashley
Primary Examiner
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ADVISORY ACTION

1. Applicant's arguments filed 8/10/04 have been fully considered but they are not persuasive.

Applicant contends that there is no motivation for combining the references and even if they were combined they would not result in the claimed invention. Applicant supports these arguments with the following comments.

However, it should be noted that the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Baker teaches that it is old and well known and common to use quick release handles with tools. To replace one known handle attachment mechanism with another known handle attachment mechanism does not result in any novel device as they appear to be merely equivalent structures known in the art for fastening handles to tools. Moreover, it should be noted that the independent claims do not set forth any specific structure only broadly claim the handle attachment.

Applicant contends that the instant invention requires twisting motion of the handle in order to manually decouple the handle without the use of tools. However, it should be noted that the above language is not found in any of the independent claims.

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Moreover, it is not completely clear that twisting of the Baker reference would not facilitate removal of the handle.

Applicant further argues that Baker appears not to be decoupled manually without the use of tools. Applicant supports this position by alleging the multiple embodiments in the Baker reference have different attachment configurations. More specifically, Figure 11b of Baker shows a positive and permanent locking arrangement and that Figure 13 shows handle release button for detachment.

However, the examiner respectfully disagrees for the following reasons. It is the examiner's opinion the Figures 6, 11, and 13 all show the same embodiment but in different views. Moreover, it is clear from the specification of Baker that the intent of the reference is to allow for manually detachable handles as discussed on pages 4 and 5, paragraphs [0075] and [0078]. In any event, even if Figure 11b shows a positive and permanent handle attachment Baker still clearly shows manually detachable handles as in Figure 13, wherein a user must push the button 74 to have the handle detach.

Applicant further contends that the use of a button to release the handle as in Figure 13 of Baker requires an aperture or opening on the Meeker slicer in order for the attaching and detaching to function properly. Applicant further contends that such openings would prevent unsanitary conditions. Although it is true that Figure 13 of Baker requires an aperture or opening to detach the handle, it should be noted that the claims do not require any specific attachment or detachment structure. The only requirement is that they are manually detachable without tools. Clearly, Baker discloses that detachable handles are equivalent structures in the art regardless of the specific

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structure that allows for the detachment. Furthermore, it would appear that applicant is implying that no cleaning is required of the instant application elements 64 upon disassembly. The examiner does not find that credible, applicant's device would require cleaning because of the non-uniform connection between the handle and the slicer. It appears that one could easily clean the aperture 76 in Baker as the connections elements of the instant invention.

Applicant further contends that Baker discloses a generally rectangular shaped handle as the Meeker slicer handle is generally cylindrical; however, it should be noted that is not requirement in the independent claims for any specific shaped handle. Moreover, there is no requirement in the rejection for any specific shaped handle, that is, there is no requirement for bodily incorporation of specific shape of Baker with the device of Meeker. Baker is only be used to teach the manually detachable handles.

Applicant further traversed the Official Notice rejection of claims 9 and 10; however, it should be noted that the Official Notice rejection was first used in the original rejection of claims 9 and 10. There is no requirement for the examiner to provide proof of such rejections at this stage of examination. See MPEP 2144.03

Applicant contends that Meeker lacks outwardly extending feet; however, the applicant is directed to Baker of the modified device of Meeker, wherein feet (56) extend outwardly.

Applicant contends that Little lacks the annulus as claimed; however, the examiner respectfully disagrees. Figures III and IV clearly shown a feed arm with two

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annular sections, one for the guide rod and one between the handle and grip plate, which is very similar to that of Meeker et al.

Applicant contends that the handle of Leibundgut is non-analogous because it would prevent unsanitary conditions and is for a power tool; however, the examiner respectfully, disagrees. As stated above, there is no requirement in the instant claims for any specific attachment structure and the handle of Leibundgut et al. is easily cleanable. Moreover, Leibundgut et al. is only be used to show that said handle connections are old and well known in the art and in this case analogous because it is in applicant's field of endeavor, that is cutting tools, and also reasonably pertinent to the particular problem with which the applicant was concern, that is handle connections.


2. For the reasons above, the grounds of rejection are deemed proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
November 22, 2004